

REMARKS

Claims 1-16 are pending, with claims 1 and 9 being in independent form. By the present amendment claim 17 has been added without adding new matter.

Applicants acknowledge with appreciation the indication of allowability of claims 2-7 and 10-16 if claims 2 and 10 are presented in independent form.

Figure 5 is objected to for informalities listed on form PTO-948. Applicants are submitting with this paper an amended Figure 5, entry of which would address the objections raised.

Claims 1, 8, and 9 stand rejected for anticipation over U.S. Patent No. 5,603,096 to Gilhousen. Each of these rejections is traversed.

To support a rejection under 35 U.S.C. § 102, each and every feature of the claimed invention must be shown in a single prior art document. In re Paulsen, 30 F.3d 1475 (Fed. Cir. 1994); In re Robertson, 169 F.3d 743 (Fed. Cir. 1999). The pending claims positively recite limitations that are not disclosed (nor suggested) in the cited document.

For example, claim 1 defines a method for controlling transmit power that includes *determining a data rate of at least a first channel* and controlling the transmit power of the at least first channel based on the determined data rate.

The Examiner contends that Gilhousen teaches controlling the transmit power based on the determined data rate. See Action, page 2. Applicant disagrees.

Gilhousen discloses a base station generating power control commands to instruct the mobile to change its power depending on the outcome of the comparisons of the SNR of a received signal with SNR threshold values. See Abstract. Gilhousen states, beginning at col. 4, line 64:

The base station cannot determine the data rate of a 20 ms data frame until well after the completion of the frame due to the forward error detection and correction coding (FEC) used. Therefore, when the base station receives a data frame from the mobile, it compares (305) the frame's SNR with each of the SNR threshold values that the base station has stored in a table. The base station has an SNR

threshold value for each of the four different data rates used by the mobile in the preferred embodiment.

The base station next generates a power control command (310) for each of the four data rates depending on the comparison of the received frame's SNR and the SNR threshold value for that particular data rate. As an example, if the SNR of the received frame is compared to the 9600 bps SNR threshold and is found to be too low for that data rate, the base station generates a power control command to instruct the mobile to increase its power output. The SNR of the received frame is then compared to the base station's 4800, 2400, and 1200 bps SNR threshold values in turn and a different power control command generated for each.

Gilhousen does not disclose (or suggest) determining a data rate of at least a first channel, as recited in claim 1. In contrast, Gilhousen discloses generating power control commands to instruct the mobile to change its power depending on the outcome of the comparisons of the SNR of a received signal with SNR threshold values.

Indeed, Gilhousen states that "the base station next generates a power control command (310) for each of the four data rates depending on the comparison of the received frame's SNR and the SNR threshold value for that particular data rate." See above, or col 5, ll. 6-9. Gilhousen further states "the SNR of the received frame is then compared to the base station's 4800, 2400, and 1200 bps SNR threshold values in turn and a different power control command [is] generated for each." See above, or col 5, ll. 13-16. In addition, Gilhousen states "[s]ince the mobile knows which data rate it used in the frame transmitted to the base station, it knows which set of power control commands to use." See col 5, ll. 64-67.

Therefore, Gilhousen discloses determining an SNR and forwarding a set of power control commands associated with a plurality of data rates, i.e., 4800, 2400, and 1200 bps. It is then up to the mobile terminal to select the appropriate power

command from the set. The set of power commands are generated based on the SNR of the received signal, not the data rate.

Accordingly, Gilhousen does not disclose (or suggest) *determining a data rate*, as defined by claim 1. Moreover, Gilhousen does not disclose (or suggest) controlling the transmit power of the at least first channel *based on the determined data rate*, as defined by claim 1.

In fact, Gilhousen states "[t]he base station cannot determine the data rate of a 20 ms data frame until well after the completion of the frame due to the forward error detection and correction coding (FEC) used." See col 4, ll. 64-67.

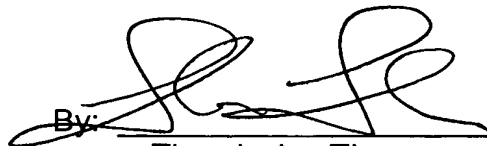
Accordingly, since Gilhousen fails to disclose each and every feature of the claimed invention for at least the above reasons, claim 1 is not anticipated by Gilhousen. Claim 8 depends from claim 1 and is therefore not anticipated by Gilhousen for at least the same reasons.

The system of claim 9 defines analogous features and is therefore not anticipated by Gilhousen for at least the same reasons.

For the foregoing reasons, Applicant considers the application to be in condition for allowance and respectfully requests notice thereof at an early date. The Examiner is encouraged to telephone the undersigned at the below-listed number if, in the Examiner's opinion, such a call would aid in the examination of this application.

Respectfully submitted,

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